



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2019-0031; FRL-8822-03-R5]**

**Air Plan Approval; Illinois; 2008 Ozone Moderate VOC RACT for  
Chicago; Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This action corrects codification errors in the Illinois State Implementation Plan (SIP) regarding the moderate volatile organic compound (VOC) reasonably available control technology (RACT) requirements of the Clean Air Act (CAA) for the 2008 Ozone National Ambient Air Quality Standards (NAAQS).

**EFFECTIVE DATE:** This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Katie Mullen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-3490, [mullen.kathleen@epa.gov](mailto:mullen.kathleen@epa.gov). The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

**SUPPLEMENTARY INFORMATION:** On August 13, 2021, the Environmental Protection Agency (EPA) made inadvertent codification errors when it approved elements of a SIP

submission from Illinois regarding the VOC RACT requirements of CAA section 182(b)(2) for the 2008 ozone NAAQS. In the final rule published in the *Federal Register* on August 13, 2021 (86 FR 44616), on page 44617, EPA correctly added an entry to the table entitled "EPA APPROVED—ILLINOIS SOURCE-SPECIFIC REQUIREMENTS", but mistakenly omitted instructions to add entries to the table entitled "EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS." In § 52.720, the table in paragraph (e) should also have been amended under the heading "Moderate Area & Above Ozone Requirements" by adding the following entries: "2008 8-hour Ozone Negative Declarations", "2008 8-hour Ozone Section 182(b)(2) VOC RACT Rules Certification", and "2008 8-hour Ozone Non-CTG RACT Demonstration".

This action amends the regulatory text to correct these errors. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

#### **Statutory and Executive Order Reviews**

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by E.O. 13175 (65 FR 67249, November 9, 2000). This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and

responsibilities among the various levels of governments, as specified by E.O. 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to E.O. 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by E.O. 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of E.O. 12988 (61 FR 4729, February 7, 1996). EPA has complied with E.O. 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress

and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. This correction to 40 CFR 52 for Illinois is not a "major rule" as defined by 5 U.S.C. 804(2).

Dated: November 24, 2021.

Debra Shore,  
*Regional Administrator, Region 5.*

Accordingly, 40 CFR part 52 is corrected by making the following correcting amendments:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. In § 52.720, the table in paragraph (e) is amended under the heading “Moderate Area & Above Ozone Requirements” by adding entries for “2008 8-hour Ozone Negative Declarations”, “2008 8-hour Ozone Section 182(b) (2) VOC RACT Rules Certification”, and “2008 8-hour Ozone Non-CTG RACT Demonstration” immediately following the entry for “Negative declaration—Shipbuilding and ship repair industry” to read as follows:

**§ 52.720 Identification of plan.**

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(e) \* \* \*

**EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Name of SIP provision	Applicable geographical or non-attainment area	State submittal date	EPA approval date	Comments
* * *	* * *	* * *		
<b>Moderate Area &amp; Above Ozone Requirements</b>				
* * *	* * *	* * *		
2008 8-hour Ozone Negative Declarations	Chicago area	1/10/2019	8/13/2021, 86 FR 44616	Includes: Aerospace Manufacturing and Rework Facilities, High-Density Polyethylene, Polypropylene, and Polystyrene Resins, Natural Gas/Gasoline Processing Plants, Oil and Natural Gas Industry, Shipbuilding and Ship Repair Industry, and Vegetable Oil Processing.
2008 8-hour Ozone Section 182(b) (2) VOC	Chicago area	1/10/2019	8/13/2021, 86 FR 44616	

RACT Rules Certification				
2008 8-hour Ozone Non-CTG RACT Demonstration-	Chicago area	1/10/2019	8/13/2021, 86 FR 44616	Industrial Wastewater Category.
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